



STATE OF MAINE  
 DEPARTMENT OF LABOR  
 19 UNION STREET, P.O. BOX 259  
 AUGUSTA, MAINE  
 04332-0259

JOHN ELIAS BALDACCI  
 GOVERNOR

LAURA A. FORTMAN  
 COMMISSIONER

**BUREAU OF EMPLOYMENT SERVICES  
 POLICY AND PROCEDURES**

<b>REISSUANCE DATE:</b>	<b>April 12, 2017</b>
<b>POLICY NUMBER:</b>	<b>06-03</b>
<b>RECISSION:</b>	<b>Replaces CareerCenter    Informational Notice: 3    Issued August 14, 2001</b>

**To:** Local Board Directors

**From:** **Melanie Arsenault**, Director  
 Bureau of Employment Services

**CC:** CareerCenter Distribution  
 Service Provider Directors  
 BRS Director  
 BES **Commerce Center-Augusta**

**SUBJECT:** On-the-Job Training

**BACKGROUND**

The purpose of this notice is to communicate the policies and guidelines for utilizing On-the-Job Training (OJT) with WIA Title I eligible customers, incumbent workers, and TAA customers. On-the-Job Training activities support the development of the comprehensive workforce investment system envisioned under WIA and Maine’s workforce development vision, by providing additional training options for both employer and employee customers.

The term “On-the-Job training” means training by an employer that is provided to a paid employee engaged in productive work that provides knowledge or skills essential to the full and adequate performance of the job. OJT is provided under a contract with an employer in the public, private non-profit, or private sector.

**Reference:**

Specific Guidance related to the WIA OJT requirements can be found in:

- State of Maine Workforce Investment Act of 1998, Title I Planning Guidelines (April 2000); Maine's Workforce Investment Act Strategic Plan Modification (May 2005)
- Workforce Investment Act of 1998
  - Title I, Section 101(31) On-the-Job Training
  - Title I, Section 122(h) On-the-Job Training or Customized Training Exception
  - Title I, Section 134(d)(4)(D) Training Services
- WIA Final Regulations
  - WIA 20 CFR Part 652, Subpart G, 663.700 to 663.730

**POLICY:**

**A. Employee Guidelines**

1. On-the-Job Training (OJT) may be provided to WIA-eligible unemployed workers and to incumbent workers.
2. WIA-eligible individuals are enrolled in OJT as appropriately based on their individual employment plans.
3. An individual who is fully skilled in an occupation shall not be placed in an OJT in that occupation.
4. Training provided through use of OJT does not require the use of an Individual Training Account (ITA).
5. TAA participant OJTs will follow the guidelines described in this policy as well as the TAA-specific guidelines as follow:
  - a. The costs of on-the-job training that are paid from TAA funds shall be paid in equal monthly installments. Such costs may be paid from TAA funds, and such training may be approved only if the CareerCenter determines that:
  - b. No currently employed individual is displaced by such eligible worker, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;
  - c. Such training does not impair existing contracts for services or collective bargaining agreements;
  - d. In the case of training that would be inconsistent with the terms of a collective bargaining agreement, written concurrence has been obtained from the concerned labor organization;

- e. No other individual is on layoff from the same or any substantially equivalent job for which such eligible worker is being trained;
  - f. The employer has not terminated the employment of any regular employee or otherwise reduced the work force with the intention of filling the vacancy so created by hiring the eligible worker;
  - g. The job for which the eligible worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals;
  - h. Such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222 of the Trade Act of 1974;
  - i. The employer certifies to the CareerCenter that the employer will continue to employ the eligible worker for at least 26 weeks after completing the training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment;
  - j. The employer has not received payment for any other OJT training provided by such employer which failed to meet the requirements of paragraphs 1 through 6 of this section or such other Federal law; and
  - k. The employer has not taken, at any time, any action that violated the terms of any certification described in paragraph 8 of this section made by the employer with respect to any other on-the-job training provided by the employer for which the employer has received a payment.
6. Incumbent workers: OJT contracts may be written for employed workers when the employee is not earning a self-sufficient wage as determined by LWIB policy, the requirements in sections B and D of this document are met, and the OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the LWIB.

## **B. Employer Guidelines**

1. Providers of OJT are not subject to the requirements for Eligible Training Providers found in WIA sec.122 (a) through (e). However, CareerCenters are responsible for collecting performance information from OJT providers as the Governor may require (WIA sec.122 (h)).
2. Contracts must not be written with employers who have previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

3. An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. Workforce Investment Boards are encouraged to develop policies and procedures for determining the average training duration. Consideration should be given to information from the employer; the Specific Vocational Preparation (SVP) information found on O\*NET on the Snapshot screen for each occupation, including skill requirements of the occupation; the academic and occupational skill level of the participant; prior work experience and the participant's individual employment plan.

### **C. Employer Payments**

- a. OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants, additional supervision related to the training and the costs associated with the lower productivity of the participants.
- b. Employers are not required to document such extraordinary costs.
- c. The LWIB is encouraged to establish guidelines for negotiating the reimbursement rate, which may be up to 50% of the wage rate of an OJT participant.
- d. Funds provided to employers for OJT must not be used to directly or indirectly assist, promote or deter union organizing.

### **D. Contracts**

- a. LWIBs are encouraged to develop OJT contracts that specify the occupation(s) for which training is to be provided, the duration, the number of participants to be trained in each occupation, wage rates, reimbursement rate, maximum amount of reimbursement, a job description or training outline of what the participant will learn, and any other separate classroom training that may be provided. The contract needs to have a provision that the employer will maintain and make available time and attendance, payroll and other records to support amounts reimbursed under OJT contracts.
- b. Costs for classroom or other additional training may be included in the OJT contract in addition to wage reimbursement if the classroom training is related to the occupation and necessary for adequate performance of the occupation.
- c. LWIBs are encouraged to develop a policy on periodic monitoring of OJT jobsites to assure the validity and propriety of amounts claimed for

reimbursement and that training is being provided as specified in the contract.

**E. Labor Standards**

- a. Training provided must be in accordance with WIA sec. 667.270 for non-displacement assurances, WIA sec.667.272 for wage and labor standards, WIA sec.667.274 (a) and (b)(1) for health and safety standards, and WIA sec.667.275 for nondiscrimination and equal opportunity assurances.
- b. Participants must receive the same benefits and have the same working conditions as similarly employed workers. LWIBs are encouraged to consider establishing minimal requirements for OJT wage and benefit amounts.

**DIRECT INQUIRES TO:**

Stephen R. Duval  
Division Director, Policy and Evaluation  
Maine Department of Labor  
Bureau of Employment Services  
55 State House Station  
Augusta, ME 04333  
**(207) 623-7988**

**EFFECTIVE DATE:**

January 1, 2006

**REISSUE DATE:**

**November 13, 2009**